

IFW

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to: Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313, on June 24, 2004

Date of Deposit

John Murray, Ph.D.

Name of applicant, assignee or  
Registered Representative

John Murray

Signature

June 24, 2004

Date of Signature

Our Case No. 11320/33

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Miles B. Brennan et al. )  
Serial No. 10/764,712 )  
Filing Date: 1/23/2004 )  
For: Method for Treatment of Insulin Resistance )  
In Obesity and Diabetes )  
Group Art Unit 1645

REQUEST FOR CORRECTION OF FILING RECEIPT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attention: Office of Initial Patent Examination's  
Filing Receipt Corrections

Sir:

Applicant requests the issuance of a corrected filing receipt (copy enclosed) for the above-identified application, and in support of this request respectfully states:

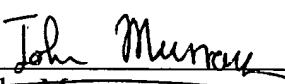
Applicant: Brennan et al.  
Serial No.: 10/764,712  
Filed: 1/23/2004

The name of the second inventor has been misspelled and should be corrected as follows: please delete "Bochgeschwender" and insert -- Hochgeschwender --. A copy of the Declaration is enclosed.

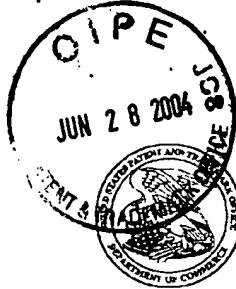
The Commissioner is hereby authorized to charge any fees required to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Dated:

  
John Murray  
Registration No. 44,251  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, Illinois 60610  
(312) 321-4200

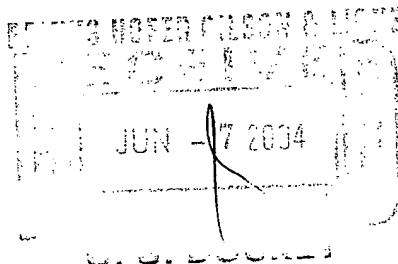


## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/764,712	01/23/2004	1645	385	11320/33	10	14	2

John Murray  
BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610



CONFIRMATION NO. 9189

## FILING RECEIPT



\*OC000000012834473\*

Date Mailed: 06/01/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Miles B. Brennan, Denver, CO;  
Ute Bochgeschwender, Oklahoma City, OK;

## Assignment For Published Patent Application

Eleanor Roosevelt Institute;  
Oklahoma Medical Research Foundation;

## Domestic Priority data as claimed by applicant

This application is a DIV of 09/953,349 09/13/2001 PAT 6,689,938  
which claims benefit of 60/232,292 09/13/2000

## Foreign Applications

If Required, Foreign Filing License Granted: 06/01/2004

Projected Publication Date: 09/09/2004

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

**Title**

Method for treatment of insulin resistance in obesity and diabetes

**Preliminary Class**

435

---

**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



**RULE 63 (37 CFR § 1.63)**  
**DECLARATION FOR PATENT APPLICATION**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "METHOD FOR TREATMENT OF INSULIN RESISTANCE IN OBESITY AND DIABETES", the specification of which has been prepared and filed on September 13, 2001, receiving Serial No. 09/953,349, and further identified as Attorney File No. 3718-7.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability in accordance with 37 CFR 1.56(a) and (b) as set forth on the attached sheet indicated Page 3 hereof and which I have read.

I hereby claim priority benefits under 35 U.S.C. 119(e) of any provisional application(s) for patent listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in such prior applications in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information material to patentability in accordance with 37 CFR 1.56(a) and (b) which occurred between the filing date(s) of the prior application(s) and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
60/232,292	9/13/00	abandoned

I hereby claim the benefit under 35 U.S.C. 120/365 of all United States and PCT international applications listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in such prior applications in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information material to patentability in accordance with 37 CFR 1.56(a) and (b) which occurred between the filing date(s) of the prior application(s) and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status: patented, pending, abandoned</u>
-------------------------------	--------------------	---

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

(1) Inventor's Signature \_\_\_\_\_ Date \_\_\_\_\_

Inventor's Name: Miles B. Brennan  
Citizenship: USA  
Residence: 2945 Leyden Street  
Denver, Colorado 80206  
Post Office Address: Same as Residence

(2) Inventor's Signature Ute Hochgeschwender Date 1/15/01

Inventor's Name: Ute Hochgeschwender  
Citizenship: USA  
Residence: 4612 N.W. 65th Street  
Oklahoma City, Oklahoma 73132  
Post Office Address: Same as Residence

37 CFR §1.56(a) and (b)  
DUTY TO DISCLOSE INFORMATION MATERIAL  
TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of a patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.\*

\*Note, 37 CFR §1.97(h) states: "The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56(b)."